IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	**Criminal Action No.**
	)	**15-0271-01/26-CR-W-HFS**
JOSHUA K. BOWERS, et al.,	)	
	)	
Defendants.	)	

ORDER OF CONTINUANCE

On July 7, 2015, the Grand Jury returned a superseding indictment charging 26 defendants with possession with intent to distribute 500 grams or more of methamphetamine in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A); possession with intent to distribute heroin, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(C), possess firearms with drug trafficking in violation of 18 U.S.C. § 924(c)(1)(A)(i), felon in possession of firearm and ammunition, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2), maintaining a drug premise in violation of 21 U.S.C. §§ 856(a) and (b), conspiracy to distribute heroin, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(A) and 846, and conspiracy to distribute methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(A) and 846). This criminal action is currently set for trial on the joint criminal trial docket which commences May 31, 2016.

On April 19, 2016, defendant Morgan, by and through counsel, filed a motion for continuance and suggestions in support thereof. On April 19, 2016, defendant Ruiz-Salazar filed a motion to join in the motion to continue trial. On May 2, 2016, defendant Ruiz-Salazar filed an opposition to the Motion for continuance. The suggestions in support of the defendant's motion for continuance state, in part, as follows:

> Undersigned counsel has been informed that the Government is still conducting significant investigation into this matter. Additionally, the Government indicates that it has conducted less than fifty percent of the anticipated proffers. Furthermore, the Government continues to look for specific information as it relates to the above-charges against Defendant and others. An additional period of at least ninety (90) days will greatly assist in the above-mentioned items being completed prior to trial. Given the size of the alleged conspiracy alone, undersigned counsel believes that any additional information from potential witness (including persons seeking some benefit from the Government) may materially affect the decision by Defendant (and any other defendants) to proceed to trial or dispose by plea. Further, and to the extent that any defendant goes to trial, the information derived from the interviews noted above will be critical to cross-examination and trial.
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> Undersigned counsel has contacted Assistant United States Attorney Bruce Rhoades to discuss the issues set out herein, and he has no objection to this continuance request. The undersigned has contacted the counsels for Defendant Morgan's co-defendants. Of the approximately 25 other defendants, undersigned counsel has received responses from 22. Of these 22 defendants, 20 defendants consent to the continuance (although not all agree to the August 22, 2016 date) and the following two (2) oppose: (a) Gabriel Ruiz- Salazar (represented by Michael Thomason); and (b) Ryan Battagler (represented by Melanie Morgan).

The Speedy Trial Act of 1974, as amended, mandates the commencement of the trial of a defendant within 70 days from the defendant's first appearance before a judicial officer of the Court in which the charge is pending. In computing the 70-day time period, the periods of delay set forth in 18 U.S.C. § 3161(h) are to be excluded. Any period of delay resulting from a continuance granted at the request of a defendant is excludable if the Court finds the ends of justice served by the taking of such action outweigh the best interest of the public and the defendant in a speedy trial, provided the Court sets forth the reason for such finding.

Section 3161(h)(8)(C) provides that a continuance shall not be granted because of general congestion of the Court's calendar. In ordering this case removed from the joint criminal jury trial docket which will commence May 31, 2016, and continuing the trial until the joint criminal jury trial docket which will commence August 15, 2016, the Court is not doing so because of congestion of its calendar.

The Court finds that:

1. In light of the circumstances set out in the above-quoted portion of the suggestions in support of the motion for continuance, it would be unreasonable to expect defense counsel to prepare this criminal action adequately for trial prior to August 15, 2016;

2. In light of the circumstances set out in the above-quoted portion of the suggestions in support of the motion for continuance, failure to remove this criminal action from the joint criminal jury trial docket which will commence May 31, 2016, and grant a continuance likely would result in a miscarriage of justice;

3. In light of the circumstances set out in the above-quoted portion of the suggestions in support of the motion for continuance, failure to remove this criminal action from the joint criminal jury trial docket which will commence May 31, 2016, and grant a continuance would deny defense counsel the reasonable time necessary for effective preparation and thus would deny the defendant his right to effective assistance of counsel; and

4. In light of the circumstances set out in the above-quoted portion of the suggestions in support of the motion for continuance, the ends of justice served by removing this criminal action from the joint criminal jury trial docket which will commence May 31, 2016, and granting a continuance outweigh the best interest of the public and the defendant in a speedy trial.

It is therefore,

ORDERED that the motion for continuance of this criminal action filed by defendant Morgan on April 19, 2016 (Doc. No. 268), is GRANTED and that this criminal action is removed from the joint criminal jury trial docket which will commence May 31, 2016. It is further

ORDERED that this criminal action is set for trial on the joint criminal jury trial docket which will commence August 15, 2016. It is further

ORDERED that the pretrial conference set for May 12, 2016, is continued until further Order of the Court. It is further

ORDERED that, pursuant to 18 U.S.C. § 3161(h), the time between the date of this Order and August 15, 2016, shall be excluded in computing the time within which the trial of this criminal action must commence.

/s/ JOHN T. MAUGHMER
JOHN T. MAUGHMER
United States Magistrate Judge

Kansas City, Missouri